IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition 20663 of 2006

Date of decision: 23.12.2006

Dalit Rights Protection Forum …Petitioner

Versus

State of Punjab, etc. …Respondents

CORAM: HON'BLE MR JUSTICE S.S.NIJJAR.
HON'BLE MR JUSTICE S.S.SARON.

Present: Mr RK Samyal, Advocate, for the petitioner.

The petitioner is stated to be a NGO registered under the Societies Registration Act. It strives for the protection of the rights of the Dalits and the Economic Weaker Section. The present petition has been filed alleging that the Superintendent of Police, Mohali (respondent-3) in an arbitrary and unlawful manner, is restricting the entry of street hawkers, vendors, rehri pheriwalas in the residential area of Mohali during the period from 10 a.m. to 4 p.m. This, according to the petitioner, is violative of Articles 19 and 21 of the Constitution of India. No order restricting the entries of the hawkers etc has been passed. Therefore, it is prayed for the issuance of a writ in the nature of certiorari for quashing the impugned action of the respondents restricting the entry of vendors in the residential area of Mohali between 10a.m. to 4 p.m. and to allow free entry to the vendors in the aforesaid area between 10 a.m. to 4 p.m.

We have heard learned counsel for the petitioner and perused the paper book.

The present petition has been filed in the nature of a public interest litigation and is stated to have been filed on behalf of street hawkers, rehri pheriwalas, vendors, etc. However, though the petitioner is stated to be a registered NGO, no material has been placed on record as regards the activities which are said to be undertaken by it. It is merely stated that the petitioner is striving for the protection of the rights of the Dalit and economic weaker sections. With this bald assertion, it cannot per se be said to be espousing the cause of the Dalits and economic weaker sections. Therefore, in our view, it would not have the locus standi to file a public interest litigation. In ***Bhartiya Homeopathy College, Bharatpur v. Students' Council of Homeopathy Medical College, Jaipur and ors*** (1998)2 SCC 449, the action of the Vice Chancellor of the University with a view to remove the hardship of students admitted in accordance with the State Act to Homeopathic Colleges at Alwar and Bharatpur which were at that time not affiliated to the University and permitting them to appear at the University examination, was assailed by the Students' Council of Jaipur College. It was held that such a Union must disclose - (i) Whether it was authorized to file the litigation; (ii) If so by whom; (iii) Whether it has sufficient funds to indulge in such litigation, and (iv) The basis for alleging harm to public interest, otherwise it could not be allowed to lightly litigate in the name of public interest to cause damage to others. The petitioner in the present case has not disclosed any of the above circumstances and, therefore also, it cannot be said to have locus standi to file such a petition. Even otherwise, a writ of certiorari is sought for quashing the impugned action of the respondents restricting the vendors, etc. in the residential area of Mohali between 10 a.m. to 4 p.m. A copy of the order allegedly restricting the entry of vendors has not been filed along with the writ petition neither has it been shown whether the order restricting the entry of

vendors in the residential area of Mohali has been applied for. In ***Surinder Singh v. Central Government and ors*** AIR 1986 SC 2166, it was held that whenever an order of government or some authorities is impugned before the High Court under Article 226 of the Constitution, the copy of the order must be produced before it. In the absence of the impugned order, it would not be possible to ascertain the reasons which may have impelled the authorities to pass the order. It is, therefore, improper to quash an order which is not produced.

Keeping in view the aforesaid circumstances, no ground for interference in the exercise of the writ jurisdiction of this Court is made out. Consequently, the writ petition is dismissed.

(S.S.NIJJAR)
JUDGE

23.12.2006. (S.S.SARON)
ASR JUDGE

WHETHER FIT FOR INDEXING : YES/NO